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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/520,736

01/10/2005

Kazuhiko Takabayashi

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EXAMINER

SCHWARTZ, DARREN B

ART UNIT

PAPER NUMBER

2435

MAIL DATE

DELIVERY MODE

10/20/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/520,736	Applicant(s) TAKABAYASHI ET AL.	
	Examiner DARREN SCHWARTZ	Art Unit 2435	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 07 October 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: _____.
- Claim(s) objected to: _____.
- Claim(s) rejected: 1-27.
- Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Kimyen Vu/
Supervisory Patent Examiner, Art Unit 2435

/DARREN SCHWARTZ/
Examiner, Art Unit 2435

Continuation of 11. does NOT place the application in condition for allowance because: The amendments to the claims necessitate further search and consideration of the art. However, the Examiner will address issues raised by applicant.

Applicant argues on pages 12-13 of Remarks, the art fails to disclose "a local environment management unit configured to authenticate based on the information from the mediating device that the first device and the second device are connected within the certain range when the first device has physically connected to the removable mediating device within a predetermined period of time before or after the removable mediating device is physically connected to the second device."

While the Examiner cannot find the emphasis added to said excerpt of claim 1, the Examiner disagrees and sustains the earlier position. Applicant's and applicant's representative are reminded that a prior art reference must be considered in its entirety, i.e. as a whole, including portions that would lead away from the claimed invention; see *W.L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984) [MPEP: 2141.02 VI].

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Applicant argues on page 13 of Remarks, "Smith does not disclose or suggest that the check in and check out information, for example, is used for authentication 'that the first device and the second device are connected within the certain range when the first device has physically connected to the removable mediating device within a predetermined period of time before or after the removable mediating device physically connected to the second device' as recited in amended independent claim 1."

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

To clarify, the Examiner applies Smith as teaching "that <<the first device and the second device are connected within the certain range when>> the first device has physically connected to the removable mediating device within a predetermined period of time before or after the removable mediating device physically connected to the second device" (emphasis added by Examiner) and the Examiner applies McCorkle as teaching "the first device and the second device are connected within the certain range." In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

The Examiner acknowledges potential amendments to the claims, the Examiner believes the newly presented subject matter of amended claim 1 is rendered obvious by the combination of references. Particularly previously applied reference, Okamoto (U.S. Pat 6854062), hereinafter referred to as Okamoto.

Okamoto teaches "wherein the first device reads information from the removable mediating device or the first device stores the information in the removable mediating device" in column 4, lines 62-67; Okamoto explicitly discloses "... PC5 downloads data from the outside device 3, and that these data are stored in the bridging medium 4 using the reader/writer 5"

Okamoto teaches "wherein the second device reads the information from the removable mediating device or the second device stores the information in the removable mediating device" in column 5, lines 1-7; Okamoto explicitly discloses "First, in the household device 2, the bridging medium 4 is detected to be inserted in to the bridging medium reader 25 (YES in step 1001). Then, the bridging medium reader 25 reads the data stored in the bridging medium 4, ..."

The fact that the Examiner may not have specifically responded to any particular arguments made by Applicant and Applicant's Representative, should not be construed as indicating Examiner's agreement therewith.